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VIA ECF

David J. Smith
Clerk of Court
United States Court of Appeals for the Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Re: *Dershowitz v. Cable News Network, Inc.*, Case No. 23-11270

Dear Mr. Smith:

My colleagues and I represent Plaintiff-Appellant Alan Dershowitz. We write pursuant to Federal Rule of Appellate Procedure 28(j) to advise the Court of a relevant supplemental authority.

In *Trump v. United States*, No. 23–939, 603 U. S. ____ (2024), the Supreme Court described the President’s place under our constitutional order in terms strikingly similar to Professor Dershowitz’s comments to the Senate. “Congress cannot act on, and courts cannot examine, the President’s actions on subjects within his ‘conclusive and preclusive’ constitutional authority.” Slip Op. at 8. Further, “[i]n dividing official from unofficial conduct, courts may not inquire into the President’s motives.” *Id.* at 18.

The damage CNN did by misstating these principles, advanced by Professor Dershowitz in even more cautious language, is all the clearer now that the Supreme Court has spoken. Professor Dershowitz’s comments presaged principles that would become constitutional law. CNN should not be let off the hook for its “foolish[], apath[etic] . . . inability to string together a series of common legal principles” that twisted viewers’ and readers’ perception of those comments—and their correctness. *See* Appellant’s Brief [D.E. 21] at 32-39.

Thank you for your consideration.

Respectfully submitted,

/s/ Mark A. Schweikert

Mark A. Schweikert, Esq.

cc: All counsel of record (via ECF)